

LEASE LOT CONVEYANCE ACT OF 2002

MARCH 7, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

[To accompany H.R. 706]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 706) to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, New Mexico, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Lease Lot Conveyance Act of 2002”.

SEC. 2. FINDINGS.

The Congress finds that the conveyance of the Properties to the Lessees for fair market value would have the beneficial results of—

(1) eliminating Federal payments in lieu of taxes and associated management expenditures in connection with the Government’s ownership of the Properties, while increasing local tax revenues from the new owners;

(2) sustaining existing economic conditions in the vicinity of the Properties, while providing the new owners of the Properties the security to invest in permanent structures and improvements; and

(3) adding needed jobs to the county in which the Properties are located and increasing revenue to the county and surrounding communities through property and gross receipt taxes, thereby increasing economic stability and a sustainable economy in one of the poorest counties in New Mexico.

SEC. 3. DEFINITIONS.

In this Act:

(1) FAIR MARKET VALUE.—The term “fair market value” means, with respect to a parcel of property, the value of the property determined—

(A) without regard to improvements constructed by the Lessee of the property;

(B) by an appraisal in accordance with the Uniform Standards for Federal Land Acquisitions; and

(C) by an appraiser approved by the Secretary and the purchaser.

(2) IRRIGATION DISTRICTS.—The term “Irrigation Districts” means the Elephant Butte Irrigation District and the El Paso County Water Improvement District No. 1.

(3) LESSEE.—The term “Lessee” means the leaseholder of a Property on the date of enactment of this Act, and any heir, executor, or assign of the leaseholder with respect to that leasehold interest.

(4) PROPERTY.—The term “Property” means any of the cabin sites comprising the Properties.

(5) PROPERTIES.—The term “Properties” means all the real property comprising 403 cabin sites under the administrative jurisdiction of the Bureau of Reclamation that are located along the western portion of the reservoirs in Elephant Butte State Park and Caballo State Park, New Mexico, including easements, roads, and other appurtenances. The exact acreage and legal description of such real property shall be determined by the Secretary after consulting with the Purchaser.

(6) PURCHASER.—The term “Purchaser” means the Elephant Butte/Caballo Leaseholders Association, Inc., a nonprofit corporation established under the laws of New Mexico.

(7) RESERVOIRS.—The term “reservoirs” means the Elephant Butte Reservoir and the Caballo Reservoir in the State of New Mexico.

(8) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

SEC. 4. CONVEYANCE OF PROPERTIES.

(a) IN GENERAL.—The Secretary shall convey to the Purchaser in accordance with this Act, subject to valid existing rights, all right, title, and interest of the United States in and to the Properties and all appurtenances thereto, including specifically easements for—

(1) vehicular access to each Property;

(2) drainage; and

(3) access to and the use of all ramps, retaining walls, and other improvements for which access is provided under the leases that apply to the Properties as of the date of the enactment of this Act.

(b) CONSIDERATION.—As consideration for any conveyance under this section, the Secretary shall require the Purchaser to pay to the United States fair market value of the Properties.

SEC. 5. TERMS OF CONVEYANCE.

(a) SPECIFIC CONDITIONS.—As conditions of any conveyance to the Purchaser under this Act, the Secretary shall require the following:

(1) LEASEHOLDERS’ OPTION.—The Purchaser shall grant to each Lessee of a Property an option—

(A) to purchase the Property at fair market value; or

(B) to continue leasing the Property on terms to be negotiated with the Purchaser.

(2) ADMINISTRATIVE COSTS.—Any reasonable administrative cost incurred by the Secretary incident to the conveyance under section 6 shall be reimbursed by the Purchaser.

(b) RESTRICTIVE USE COVENANT.—

(1) IN GENERAL.—To maintain the unique character of the area in the vicinity of the Reservoirs, the Secretary shall establish, by the terms of conveyance, use restrictions to carry out paragraph (2) that—

(A) are appurtenant to, and run with, each Property; and

(B) are binding upon each subsequent owner of each Property.

(2) ACCESS TO RESERVOIRS.—The use restrictions required by paragraph (1) shall ensure that—

(A) public access to and along the shoreline of the Reservoirs in existence on the date of enactment of this Act is not obstructed;

(B) adequate public access to and along the shoreline of the Reservoirs is maintained; and

(C) the operation of the Reservoirs by the Secretary or the Irrigation Districts shall not result in liability of the United States or the Irrigation Districts for damages incurred, as a direct or indirect result of such operation, by the owner of any Property conveyed under this Act, including—

(i) damages for any loss of use or enjoyment of a Property; and

(ii) damages resulting from any modifications or construction of any reservoir dam.

(c) TIMING.—

(1) IN GENERAL.—The Secretary shall convey the Properties under this Act as soon as practicable after the date of enactment of this Act and in accordance with all applicable law.

(2) REPORT.—If the Secretary has not completed conveyance of the Properties to the Purchaser by the end of the 1-year period beginning on the date of the enactment of this Act, the Secretary shall, before the end of that period, submit a report to the Congress explaining the reasons that conveyance has not been completed and stating the date by which the conveyance will be completed.

(d) REIMBURSEMENT OF PURCHASER'S COSTS.—The terms of conveyance shall authorize the Purchaser to require each Lessee to reimburse the Purchaser for a proportionate share of the costs incurred by the Purchaser in completing the transactions pursuant to this Act, including any interest charges.

SEC. 6. RESOLUTION OF CLAIMS AND DISPUTES.

After conveyance of the Properties to the Purchaser, if any Lessee has a dispute with or claim against the Purchaser or any of its officers, directors, or members arising from the Properties, the Lessee shall promptly give written notice of the dispute or claim to the Purchaser. If such notice is not provided to the Purchaser within 20 days after the date the Lessee knew or should have known of such dispute or claim, then any right of the Lessee for relief based on such dispute or claim shall be waived. If the Lessee and the Purchaser are unable to resolve the dispute or claim by mediation, the dispute or claim shall be resolved by binding arbitration.

SEC. 7. FEDERAL RECLAMATION LAW.

No conveyance under this Act shall restrict or limit the authority or ability of the Secretary to fulfill the duties of the Secretary under the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

PURPOSE OF THE BILL

The purpose of H.R. 706, is to direct the Secretary of the Interior to convey certain properties in the vicinity of the Elephant Butte Reservoir and the Caballo Reservoir, New Mexico.

BACKGROUND AND NEED FOR LEGISLATION

In the 1930s the lease lot program at Elephant Butte and Caballo Reservoirs began where the Bureau of Reclamation leased parcels of land surrounding the two reservoirs. Under the terms of the lease, significant improvements to the land had to be made before renewal could take place. Leaseholders made these improvements including the building of homes. The lease holders made these improvements because they were under the impression that someday they would be able to buy the property from the Bureau of Reclamation. Privatization of this land has been the plan of many such leaseholders.

This proposed transfer in H.R. 706 culminates several years of effort by the interested parties, the Bureau of Reclamation and Congress to address all issues related to the transfer.

The Committee expects that the costs associated with the surveys and appraisals required for the determination of fair market value will be included in the administrative costs described in section 5(a)(2) of the bill.

COMMITTEE ACTION

H.R. 706 was introduced on February 14, 2001, by Congressman Joe Skeen (R-NM). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Water and Power. On December 10, 2001, the Subcommittee held a field hearing on the bill in Las Vegas, Nevada. On February 14, 2002, the Subcommittee met to mark up the bill. Congressman Ken Calvert (R-CA) offered an amendment in the nature of a substitute to

clarify where the proceeds of the sale will be credited and how the fair market value will be determined. The amendment also provided a date by which the transfer shall be completed, or require a report to Congress if the Administration cannot complete the transfer in a timely manner. The Calvert amendment was adopted by unanimous consent. The bill as amended was then ordered favorably reported to the Full Committee by unanimous consent. On February 26, 2002, the Full Resources Committee met to consider the bill. Congressman Calvert offered an amendment to clarify that the Secretary of the Interior and the purchaser will select the appraiser. The amendment was adopted by unanimous consent. The bill, as amended, was then ordered favorably reported to the House of Representatives by unanimous consent.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in expenditures. According to the Congressional Budget Office, enactment of H.R. 706 will result in additional receipts of \$20 million over the 2003–2007 period.

3. General Performance Goals and Objectives. This bill does not authorize funding and therefore, clause 3(c)(4) of rule XIII of the Rules of the House of Representatives does not apply.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, March 5, 2002.

Hon. JAMES V. HANSEN,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 706, the Lease Lot Conveyance Act of 2001.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Julie Middleton (for the federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

STEVEN M. LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
CHANGES IN DIRECT SPENDING						
Estimated Budget Authority	0	0	– 20	0	0	0
Estimated Outlays	0	0	– 20	0	0	0

Basis of estimate: For this estimate, CBO assumes that H.R. 706 will be enacted in fiscal year 2002 and that the conveyance of the properties will occur in 2004. According to both the Elephant Butte/Caballo Leaseholders Association and the Bureau of Reclamation, it will take at least one year to survey and appraise the property before the land would convey.

Based on information provided by the Bureau of Reclamation, CBO estimates that the association would purchase the property including easements and roads from the federal government for about \$40,000 to \$60,000 per lot, for a total of about \$20 million for the 403 cabin sites.

Currently, these properties do not generate any receipts for the federal government. The state of New Mexico manages the property for recreation and leases the cabin sites to individuals for temporary occupancy. The state uses the revenue generated from the leases for administration and management of the cabin sites and other types of park operations.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects through 2006 are counted.

	By fiscal year, in millions of dollars—											
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	
Changes in outlays	0	0	—20	0	0	0	0	0	0	0	0	
Changes in receipts	Not applicable											

Intergovernmental and private-sector impact: H.R. 706 contains no intergovernmental or private-sector mandates as defined in UMRA. The state of New Mexico manages these leases and retains

the lease payments to cover their costs. Should the property be sold, the state would lose the lease income, but also would benefit from reduced costs. The net impact on the state probably would not be substantial.

Estimate prepared by: Federal Costs: Julie Middleton. Impact on State, Local, and Tribal Governments: Majorie Miller. Impact on the Private Sector: Lauren Marks.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes in existing law.

